

REMARKS

In the Restriction Requirement mailed November 8, 2008, the Examiner has restricted the claims to one of the following patentably distinct species under 35 U.S.C. 121:

First Embodiment: Figures 6A-6B; Paragraphs 0069-0072

Second Embodiment: Figures 7A-7B; Paragraphs 0073-0077

Third Embodiment: Figures 9A-9B; Paragraphs 0086-0088

Fourth Embodiment: Figures 10A-10B; Paragraphs 0089-0091

Fifth Embodiment: Figures 13-14; Paragraphs 0118-0122

Sixth Embodiment: Figure 15; Paragraphs 0123-0124

Seventh Embodiment: Figures 16-17; Paragraphs 0125-0129

Eighth Embodiment: Figure 18; Paragraphs 0130-0131

Ninth Embodiment: Figure 20; Paragraphs 0139-0141

Tenth Embodiment: Figure 21; Paragraphs 0142-0143

Eleventh Embodiment: Figure 22; Paragraphs 0144-0146

Twelfth Embodiment: Figure 23; Paragraphs 0147-0148

Applicant elects, with traverse, the species of Embodiment 1, Figures 6A-6B. At least claims read on the elected species. Moreover, at least claims 1-6, 17-21, 33-34, 42-44, 63, 64, 72, 73 are generic to all species. At least claims 1-7, 13, 17-21, 25-26, 32-34, 37, 39, 42-44, 48-49, 51, 56-58, 60, 62, 63-69, 71-74, 76-77 read on the elected species. Moreover, claim 7 is linking claim between the elected species and the species identified as the Second Embodiment, Figures 7A-7B; the Sixth Embodiment, Figure 15; and the Eighth Embodiment, Figure 18. Claim 7 further links to the Second Embodiment, Figures 7A-7B; the Fourth Embodiment, Figures 10A-10B; the Eighth Embodiment, Figure 18, and the Twelfth Embodiment, Figure 23. Allowance of claim 7 should result in examination of each of these species.

Claim 13 links the elected species and the species identified as the Second Embodiment, Figures 7A-7B; the Sixth Embodiment, Figure 15; and the Eighth Embodiment, Figure 18.

It is further noted that Figures 1A and 1B illustrate a generic embodiment and all of the pending claims read on these generic figures.

Applicant traverses and asserts that the restriction is improperly conclusory. In particular, the Office states:

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Accordingly, the Office Action fails to identify the “mutually exclusive characteristics of such species” that serve as the basis of the restriction as required in MPEP 803.

Applicant further traverses this election of species as there is no serious burden on the examiner to continue to examine all claims. The examiner has produced eight office actions based on the present claim set and restriction requirement. As the examiner has conducted searches and examination at least eight different times, there is no serious burden to continue to examine this application in the same manner as in the past.

Applicant request withdrawal of the present election of species.

Applicant respectfully reserves the right to reintroduce the non-elected claims for reconsideration in this application upon allowance of a linking claim or to reintroduce them in one or more divisional applications at a later date.

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 10/612,793

Filing Date: July 2, 2003

Title: HIGH-PERFORMANCE ONE-TRANSISTOR MEMORY CELL

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Dkt: 1303.111US1

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 349-9587 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

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By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10th day of November, 2008.

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Signature

